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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 95-227

In the Matter of)
Assessment and Collection) MD Docket No. 95-3
of Regulatory Fees for)
Fiscal Year 1995)

Price Cap Treatment of)
Regulatory Fees Imposed)
by Section 9 of the Act)

REPORT AND ORDER

Adopted: June 14, 1995 ; Released: June 19, 1995

By the Commission:

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I. Introduction

1. The Congress, pursuant to Section 9 of the Communications Act of 1934, as amended, has required that the Commission collect \$116,400,000 in FY 1995 to recover certain of its regulatory costs. On January 12, 1995, the Commission released a Notice of Proposed Rule Making, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal year 1995, MD Docket No. 95-3, FCC 95-14 (Notice). In the Notice, the Commission asked for comments on proposals to revise its Schedule of Regulatory Fees.¹ The Commission now has under consideration a proposed Report and Order to revise its Schedule of Regulatory Fees. See 47 CFR 1.1152 through 1.1156.

2. In revising our regulatory fees, we adjusted our Regulatory Fee Schedule to recover \$116,400,000 in regulatory costs, consistent with the amount that Congress has appropriated for our enforcement, policy and rule making, international, and user information activities for FY 1995.² 47 U.S.C. § 159(a). In addition, we have amended the Schedule to collect regulatory fees from regulatees of services not included in the FY 1994 Schedule and we have modified our method of assessing fees for certain services. 47 U.S.C. §§ 159(b)(1)(A), (b)(3). The revised Regulatory Fee Schedule is set forth in Appendix B.

3. For several categories of service, the regulatory fees for FY 1995 are significantly higher than corresponding fees for FY 1994. See 47 U.S.C. § 159(g); see also Implementation of Section 9 of the Communications Act (FY 1994 Order), 9 FCC Rcd 5333 (1994) Petitions for Reconsideration Pending. Our revised assessments result, for the most part, from increases in the amount that Congress has appropriated for Commission activities whose costs must be recovered through regulatory fees. As noted, the amount appropriated and to be recovered through regulatory fees is \$116,400,000. That amount is 93 percent greater than the \$60,400,000 that Congress required us to recover through regulatory fees in FY 1994. The impact of this increase is, however, lessened for some categories of services by anticipated revenues from categories of regulatees that we added to the Regulatory Fee Schedule and by increases in the number of payment units, e.g., subscribers.³ Similarly, for some services

¹ The pleadings and reply pleadings are listed in Appendix J.

² See Public Law 103-317, 108 Stat. 1724 at 1737-38 (August 26, 1994).

³ Payment units represent the number of individual payments available in a particular service to generate the required revenue in that service. Payment units also represent, in a

increases in the fees exceed 93% because of the reallocation of FTEs, decreases in the number of payment units, and modification of the methodology for computing fees to better reflect the benefits derived from the Commission's regulation.

4. In determining the individual fee amounts for FY 1995, Section 9 of the Act requires that we first determine the number of full-time equivalent employees (FTEs)⁴ associated with our regulatory activities, and then determine the amount to be recovered from each fee category by estimating the number of FTEs assigned to each category. "Mandatory adjustments" are then made to the Section 9 Regulatory Fee Schedule. An initial attempt to develop individual fees by allocating FTEs down to the individual fee level rather than at the grouped category level proved ineffective. Since we do not have a cost accounting system to gather appropriate data on how Commission employees allocate their time, estimated FTE data yielded anomalous results which would have required substantial "permitted amendments" to resolve obvious inequities.

5. Additionally, it became apparent in the fee development effort that the Commission's options were limited in terms of what it could do to make the fees more equitable and at the same time assure that the Commission collects the \$116.4 million that Congress has required. This meant that we could not recommend adoption of proposals that would have resulted in the regulatees being unsure about the amount of their fee payment and the staff having no way to verify that proper payments were made. In addition, we had difficulty developing fees in several areas because the Commission does not always have accurate or complete information concerning the number of regulatees and/or measurement units essential to fee collection verification requirements. Thus, it became necessary in a number of instances

different context, the number by which a payor must multiply the fee amount for a particular service in order to calculate its total fee due for the service. For example, "subscribers" is the payment unit applicable to Cable Television fees. The number of subscribers is divided into the overall Cable Television revenue requirement to determine the fee amount for that service, and it is also used by payors to determine the system's total fee liability (i.e., by multiplying the payment units by the fee amount to determine the system's total fee requirement).

⁴ Full Time Equivalent (FTE) employment is the total number of regular straight-time hours (i.e., not including overtime or holiday hours) worked or to be worked by current and future employees divided by the number of compensable hours applicable to each fiscal year. See Office of Management and Budget Circular A-11, Section 13.1, Definitions relating to employment.

to utilize industry estimates of payment volumes instead of relying on information available within the Commission.

6. Finally, much of our policy and rule making efforts are expended in the development of new and emerging technologies and services (e.g., PCS, DBS, and LEOs). We found that, as a practical matter, we had to allocate the costs associated with these activities to existing licensees in other services because there were no operational systems or customer base on which to assess a fee for these new services. To alleviate the regulatory burden on existing licensees, we urge the Congress to allow the Commission to recoup, from amounts received from competitive bidding under Section 309 of the Communications Act, at least such amount as would otherwise be allocable as regulatory fees for such services.

II. Background

7. Section 9(a) of the Act requires us to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, of our enforcement, policy and rule making, international, and user information activities.⁵ 47 U.S.C. 159(a). Congress established our Regulatory Fee Schedule for FY 1994. 47 U.S.C. § 9(g). In our FY 1994 Report and Order, we set forth the Regulatory Fee Schedule for FY 1994 and prescribed rules to govern payment of the fees, as required by Congress.⁶ 47 U.S.C. § 159(f)(1); 47 CFR §§ 1.1151 - 1.1166.

8. For fiscal years after FY 1994, Section 9 requires that we adjust the fees so that we can reasonably expect to collect the amount specified by Congress. 47 U.S.C. § 159(b)(1)(B). Sections 9(b)(2) and (3) provide for annual "Mandatory Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees.

9. In making Section 9(b)(2)'s mandatory adjustments, we first consider the amount that we are to collect as set forth in our Appropriations Act. 47 U.S.C. §§ 159(b)(2), (b)(1)(B). Second, we identify the number of FTEs allocated to our enforcement,

⁵ Our various activities, including those whose costs are subject to recovery through regulatory fees, are described in Appendix I.

⁶ In the FY 1994 Order, we adopted rules to implement the collection of regulatory fees, including payment procedures, specific exemptions from the payment of regulatory fees, procedures for requesting waivers, reductions and deferments of fee payments, and penalties for late payment or non-payment of the fees. We shall in the near future address petitions for reconsideration of the FY 1994 Order and consider whether to make amendments to our implementing rules.

policy and rule making, user information, and international activities. 47 U.S.C. § 159 (b) (1) (A). 159(b)(1)(A). Third, we determine the amount to be recovered from each fee category, e.g., Common Carrier, by estimating the number of FTEs assigned to each fee category. 47 U.S.C. § 159(b)(2). Finally, we make proportionate adjustments to the individual fees set forth in Section 9(g)'s Regulatory Fee Schedule in order to determine the revised fee for the particular services within each service category for FY 1995. Id. In determining individual service fees, we take into consideration the estimated number of payment units, e.g., licensees, for each service. 47 U.S.C. § (b)(2)(A).

10. Once we have determined each service's "mandatory fee," as described above, Section 9(b)(3), relating to "Permitted Amendments" to the Schedule, provides that, if necessary, we shall amend the Schedule of Regulatory Fees, as provided in Section 9(b)(1)(A) to, inter alia, reflect the benefits of our regulation to the payers of the fees for each service by considering factors that we determine are necessary in the public interest. 47 U.S.C. §§ 159(b)(3), (b)(1)(A). In making these amendments, we "shall add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services..." 47 U.S.C. § 159(b)(3). Finally, while the fees are not judicially reviewable, we are required to notify Congress of any permitted amendments to the Regulatory Fee Schedule 90 days before those amendments become effective. 47 U.S.C. § 159 (b)(2), (3), (4)(B).

III. Discussion

A. FY 1995 Regulatory Fees

1. General Discussion

11. In adjusting our regulatory fees pursuant to Section 9(b)(2)'s provisions for "Mandatory Adjustments", we first identified our directly assigned FY 1995 regulatory fee FTEs in the Wireless, International, Mass Media, Common Carrier and Cable Services Bureaus. We next allocated these regulatory fee FTEs to the appropriate Section 9 regulatory fee category (i.e. Private Radio, Mass Media, Cable Services, and Common Carrier). We then identified additional FTEs from bureaus and offices supporting the regulatory fee activities of the operating bureaus.⁷

⁷ The Compliance and Information Bureau (CIB) (formerly the Field Operations Bureau), the Office of Engineering and Technology (OET), and the Office of Managing Director (OMD) perform activities supporting the operating Bureaus. FTEs assigned to CIB, OET and some elements of OMD supporting the regulatory activities of the operating Bureaus were allocated to the Private Radio, Mass Media, Common Carrier, and Cable Services

Appendix C contains a more detailed description of our allocation of FTEs by activity. The resulting allocation of FTEs, rounded to the nearest tenth of a percent, is as follows:

<u>Regulatory Fee Category</u>	<u>Regulatory Fee FTEs</u>	<u>Regulatory Fee Percentage</u>	<u>Percentage of Total FCC FTEs</u>
Private Radio	103	7.3%	4.5%
Mass Media	253	18.0	11.1
Common Carrier	689	49.0	30.3
Cable Services	<u>361</u>	<u>25.7</u>	<u>15.9</u>
Total	1,406	100.0%	61.9%

12. Next, we allocated our \$116,400,000 revenue requirement to the Private Radio, Mass Media, Common Carrier, and Cable Services activities, based on the regulatory fee percentages shown above. For example, to derive the amount to be recovered from cable services, we calculated that the 25.7 percent of total FTEs representing the 361 FTEs assigned to the cable services activity resulted in \$29,914,800 to be recovered through the collection of cable services fees. The resulting allocation of costs, rounded to tenths of a million, by regulatory fee category, is as follows:

<u>Regulatory Fee Category</u>	<u>Cost Allocation</u>
Private Radio	\$ 8.5 million
Mass Media	21.0 million
Common Carrier	57.0 million
Cable Services	29.9 million

13. After determining these cost allocations, we updated the number of FY 1995 payment units for the individual services within each fee category. For example, we estimate that there are approximately 60,000,000 payment units for cable television systems, i.e., cable subscribers. The number of payment units is based upon information provided by Commission program experts and supplemented by information contained in actual licensee data bases maintained by the Commission, information provided by industry groups or contained in trade publications, actual data from FY 1994 regulatory fee collections, and from data provided

fee categories on a pro rata basis.

in the comments in this proceeding.⁸ See Appendices D through G.

14. Next, in order to make the proportionate changes in the statutory schedule of fees required by Section 9(b)(2), we compared our FY 1995 revenue requirement in each regulatory fee category, e.g., Cable Services, with the total amount that would be collected from all of the services within each category under the FY 1994 fee schedule. For example, we estimated that approximately \$22.7 million, or \$7.2 million less than its \$29.9 million FY 1995 revenue requirement, would be collected from cable system payers based upon our FY 1994 fees. Therefore, we pro-rated the \$7.2 million shortfall to the individual services within the cable services fee category (i.e., CARS licensees and cable system subscribers).⁹ We then divided the revenue requirement in each service by the payment units to determine the revised amount of the individual fee. These revised fees constitute the "mandatory adjustments" required by Section 9(2).

15. Following our determination of "Mandatory Adjustments", we reviewed each service and its associated fee assessment to determine if the nature of a service or the public interest warranted a fee adjustment pursuant to Section 9(b)(3)'s requirements for "Permitted Amendments." Pursuant to our authority to make permitted amendments to the fees, we revised our method for calculating fees for local exchange carriers (LECs), interexchange carriers (IXCs), and other common carriers and certain international services. Additionally, we are establishing a reduced fee for satellite television stations to distinguish those stations from full service television stations and we are adding a fee requirement for licensees of FM and TV translator and booster stations. Also, we established a fee for one-way paging services separate from the fee for other common carrier mobile services, reduced the fee for space stations, and eliminated the fee for receive only earth stations. After making these permitted amendments, we revised the remaining fees within

⁸ We have made a number of changes to our payment unit estimates. The revised estimates are provided in each Section pertinent to individual fees beginning at paragraph 27 and are also contained in Appendixes D through G. In applying the pro-rata formula for determining individual fee amounts within each fee category, revised payment units have the effect of raising or lowering the allocated costs (revenue requirements) for individual services, as well as, the calculated fees for all fees in a category depending on whether the payment unit volumes increased or decreased from those shown in the NPRM.

⁹ Due to revisions to payment units, cost allocations (revenue requirements) may change for a particular service. In addition, cost allocations may change due to changes made pursuant to permitted amendments (see Paragraph 12).

the affected service category to take into account the impact of the fee modification upon other services within the category.¹⁰

16. Comsat General and Comsat Video argue that their proposed fee increases are disproportionately high when compared to the increases proposed in other categories of service and within their own category of service, and that the increase constitutes a violation of Section 9(b)(2)'s requirement that we make proportionate adjustments to the statutory fees when recalculating the fees to collect a greater or lesser amount than previously required by Congress. These parties assert that our proposed fee increases with respect to Common Carrier activities and, in particular, geosynchronous space stations are neither proportionate nor in the public interest, and, that they constitute illegal taxes because they do not reasonably reflect the true cost of regulatory service provided to these entities. See National Cable Television Ass'n. v. United States, 415 U.S. 336, 340 (1974) (NCTA I). COMSAT General and Comsat Video state that a fee is distinguishable from a tax in that a fee is "a payment for a special privilege or service rendered, and not a revenue measure." National Cable Television Ass'n. v. F.C.C., 554 F.2d 1094, 1106 (D.C. 1976). According to these parties, the fee must be calculated to return the cost of the service or benefit at a rate that reasonably reflects the costs of the services performed and the value conferred on the payor. Electronic Industries Ass'n. v. F.C.C., 554 F.2d 1109, 1117 (D.C. 1976).

17. In addition, the parties argue that our proposed allocation of FTEs to the major categories of service fails to comply with the requirements of Section 9. These parties contend that our proposed allocation of FTEs to the various major service categories violates Section 9(b)(1)(a) because, in their view, the Notice contains insufficient supporting information to permit analysis of the basis for our FTE allocations. Comsat General argues that a detailed accounting of the overhead and employees' time, based on a task code charge system, is necessary to justify the reasonableness of our assignment of FTEs to the common carrier and other categories and to the individual services within these categories.

¹⁰ We have not proposed regulatory fees in FY 1995 for the Personal Communications Service (PCS), Commercial Mobile Radio Service (CMRS) other than those listed here (cellular and public mobile), Low Earth Orbital (LEO) Satellite Service and the Direct Broadcasting Satellite (DBS) Service because no facilities were authorized on our proposed dates for calculating fees or a negligible number of FTEs applicable to the regulatory fee program are assigned to these services.

18. Also, several parties contend that the Notice fails to demonstrate that individual fees are "reasonably related to the benefits provided to the payor of the fee," in violation of Section 9(b)(1)A), and are contrary to the intent of Congress as reflected in the legislative history of Section 9. They also contend that the regulation of their particular service does not justify the fee proposed for the service. GE America Communications, Inc. (GE Americom) states that the amount of cost recovery that we allocated to geosynchronous satellites should be reduced because our regulatory activities with respect to in-orbit domestic satellites are de minimis since their licensees are not the subject of enforcement proceedings, our domestic satellite policies are well-established with little need for rule makings, and our deregulatory policies have further reduced the cost of space segment regulation.

19. We reject Comsat General and Comsat Video's arguments that our proposed fees constitute unauthorized taxes. In reviewing a similar fee program enacted by Congress, the Supreme Court held that NCTA I stood only for the proposition that Congress must indicate clearly its intention to delegate "discretionary authority to recover administrative costs not inuring directly to the benefit of regulated parties by imposing additional financial burdens, whether characterized as 'fees' or 'taxes' on those parties." Skinner v. Mid-American Pipe Line Co., 490 U.S. 212, 224; 109 S.Ct. 1762, 1733 (1989).¹¹ Skinner thus bars any interpretation of NCTA I and its progeny in the courts of appeals that would limit Congress to allowing agencies to set regulatory fees only in amounts that reflect services received by the regulated entities. Skinner also stated that a congressional delegation of authority to raise funds was proper where Congress provides sufficient guidance to the collecting agency concerning the identity of the entities subject to the fee, the purposes for which the funds may be used, the manner in which the fees are to be established, and the aggregate amount of the fees to be collected. 490 U.S. 219-220, 109 S. Ct. 1731.

20. Subsequent to the Court's decision in Skinner, Congress adopted Section 9 directing us to recover the full amount of specified regulatory costs from regulatees. Consistent with the guidance in Skinner, Congress identified the categories of service providers subject to the fees, and declared that fees are to be assessed in a rule making proceeding, based upon the number of FTEs within our bureaus and offices performing enforcement,

¹¹ Skinner stated that in NCTA I, the Court had expressed doubt whether Congress had intended in the particular statute in question to delegate the authority to recover the costs of benefits to the public by assessing fees on regulated parties. For that reason, it struck down the agency's efforts to recover such costs. 490 U.S. at 223-224; 109 S.Ct. at 1733.

policy and rule making, international, and user information activities. Section 9 further requires us to take into account factors reasonably related to the benefits provided to the payor of the fee by these activities, and we are to recover the costs of these activities only if required in annual Appropriations Acts and only in the aggregate amount annually designated by Congress. As described below, our actions to revise the regulatory fees are consistent with the requirements of Section 9. Thus, our revisions to the Regulatory Fee Schedule in establishing regulatory fees for FY 1995 satisfy the Court's concerns and guidelines regarding unauthorized taxation of persons subject to a fee requirement.

21. The FTE allocations used to calculate the amounts to be recovered from each fee category were developed in full compliance with the requirements of Section 9 of the Act. In developing the FY 1995 regulatory fee schedule, we relied upon estimates of year-end FTEs from our Bureaus and Offices, because actual FTEs utilized are not known until the completion of the fiscal year. Thus, to produce the best possible estimates of FY 1995 year-end FTEs, we conducted a survey in December 1994, immediately prior to releasing the Notice in this proceeding to estimate FTEs for this rule making.¹² The Commission performed a review of its staffing, taking into consideration expected new and replacement hiring and attrition through the end of the fiscal year, in order to determine the most accurate estimate of projected FY 1995 year-end FTEs by organization. Next, the Bureaus and Offices allocated their assigned year-end FTEs to each of their major functional activities (e.g., Authorization of Service, Enforcement, Public Information). The staff actually assigned to perform these allocations within the Bureaus and Offices were those individuals most familiar with the regulatory programs and associated staffing under their auspices.¹³

¹² When the survey was conducted, in December 1994, only approximately 20% of the total FTEs expected to be utilized for the entire FY 1995 time frame were actually "accrued". As such, approximately 80% or 1,125 of the 1,406 FTEs for FY 1995 were estimated based on this small 20% "sample".

¹³ Congress recognized, in adopting the Schedule of Fees, that the Commission has no cost accounting system in place to assist in the estimation of final fiscal year FTEs and related costs. Public Law 103-66, 107 Stat. 313 at 401 (1993). Although the Commission is developing a cost accounting system and it should be in place for FY 1996, such a system would not provide a definitive count, but only an estimate of year-end FTEs even when fully implemented. In summary, we believe that the estimates of FTEs and costs utilized in this proceeding are reasonable and represent the most accurate information available. We have provided in Appendix C an explanation of how FTEs were calculated

22. In contending that their proposed fees are unduly high, commenters generally have failed to recognize that Section 9 requires that we add to our direct FTEs, i.e., those represented by staff directly assigned to our operating Bureaus, any support FTEs representing staff assigned to overhead functions such as our field and laboratory staff and certain staff assigned to the Office of Managing Director. 47 U.S.C. § 159(b)(1)(A). These support FTEs comprise nearly 40% of all FTEs associated with regulatory fees. Therefore, personnel costs to be recovered through regulatory fees are approximately 40% higher than the costs associated with staff directly assigned to an operating Bureau and performing functions covered by the regulatory fee program. Further, personnel costs represent only 75% of our costs to be recovered through regulatory fees. Thus, the addition of non-personnel costs (equipment, rents, contractual services, supplies, etc.) to personnel costs results in an actual cost of regulation significantly exceeding direct staff costs. The addition of benefits and other obligations to the average Commission salary cost results in an additional cost of approximately \$33,000 per employee. Although some of the parties view these costs of regulation to be excessive, they often reflect costs associated with our regulatory programs that they may not have fully considered.

23. Support FTEs, and ultimately costs, are allocated to each regulatory fee category (e.g., cable television) based upon the number of direct FTEs assigned to each fee category. We believe our allocations of FTEs reasonably assign personnel and related costs attributable to each fee category. As noted, actual FTE assignments can only be determined once a fiscal year is completed. However, we are satisfied that our estimates, based upon careful review of current and anticipated FTE assignments conducted well into the fiscal year and shortly before the adoption of the Notice in this proceeding, yield an accurate estimate of FY 1995 FTE assignments.

24. We also note the concerns of several commenters that certain individual fees seem unreasonable relative to the benefits provided. In general, these commenters fail to recognize the formulaic approach to setting the mandatory fee levels dictated by Congress. Section 9 provides that, in setting individual fee amounts, we prorate increases or decreases to the individual services within each fee category. 47 U.S.C. § 159(b)(2). This statutory requirement retains the relationship between annually calculated fees and the fees initially established by the Congress. It does not provide the flexibility to adjust fees relative to benefits to the payor or in consideration of other factors. These factors, however, are considered in the next

for each fee category.

stage of the fee development process as permitted amendments, if warranted.

25. As discussed earlier, the Commission is not able to allocate detailed costs to individual fee line items (e.g., VHF Television Stations in the 51-100 markets). Rather, those costs are allocated to broad categories of services by Section 9. Even when the Commission implements a cost accounting system in FY 1996, it may not be cost effective to obtain detailed cost data relative to our regulation of individual services. Since we do not relate specific regulatory costs to particular services within a fee category, we are constrained by Section 9 and by our information collection systems to the formulaic approach to the mandatory adjustment of regulatory fees. However, any inequities resulting from this approach are likely to be small and confined to like services due to the pro-rata formula applied by fee category. As noted, in developing the individual fees, as discussed below, we have carefully examined any apparent inequities computed pursuant to the mandatory formula required by Section 9 and have adjusted certain fees pursuant to our authority to make "permitted" amendments to the fees. In making the permitted amendments, the Commission is not required to calibrate the amount of the regulatory fee collected precisely to the cost of the benefits each regulatee derives from the Commission's regulation. See United States v. Sperry Corp., 493 U.S. 52, 60 (1989) (upholding a one and a half percent user fee of amount recovered by claimant before Iran-U.S. Claims Tribunal); Massachusetts v. United States 435 U.S. 444, 463 (1978) (upholding flat registration fee on civil aircraft). Moreover, the Commission can collect fees from regulatees for their use of frequencies and for the potential benefits of its regulatory activities, even if they do not utilize these activities. See United States v. Sperry Corp., 493 U.S. supra at 63.

26. Also, many commenters have mistakenly correlated gross increases in fee amounts from FY 1994 to FY 1995 to increases in regulation. Although there may, in fact, be changes in regulatory burden for certain services, the primary reason for increased fees overall is the 93% increase in recoverable fees mandated by Congress. Additionally, Section 9 prohibited any adjustment of individual fees established in the Regulatory Fee Schedule for FY 1994. 9 U.S.C. § 159(b)(2). Thus, the FY 1994 fee was established by Congress and was not adjusted to reflect changes in the allocation of FTEs not considered by Congress. Our development of FY 1995 fees in accordance with Section 9's requirements represents the first allocation of FTEs to appropriate fee categories. This has resulted in a realignment of costs between major fee categories and a redistribution of relative fee revenue requirements among the four major fee categories. As the commenters have noted, certain fees decrease from FY 1994 levels while other fees increase. This primarily reflects the reallocation of FTEs for FY 1995 compared to the

Congressionally mandated Regulatory Fee Schedule in effect in FY 1994.

27. We have retained, for fee determination purposes, the regulatory fee category classifications (i.e., Private Radio, Common Carrier, Cable Services and Mass Media) set forth in Section 159 in order to minimize any adverse impact on the fees resulting from changes in classification. Further, for ease in locating particular fees, we have formatted the FY 1995 Schedule of Fees to reflect our new organizational structure even though we have developed those fees based upon the fee activities contained in the FY 1994 Regulatory Fee Schedule. See Appendix B. With the exception of annual fees in the amount of \$5.00 or less, individual fee amounts have been rounded to the nearest \$5 in the case of fees under \$1,000, or to the nearest \$25 in the case of fees of \$1,000 or more in accordance with Section 9(b)(2). Appendices C through G describe the method by which FTEs were assigned to the fee categories and the development of the individual fees within each major category.

28. We have revised the revenue requirements for individual fees in several of the fee categories. Revenue requirements change whenever volume estimates change due to the pro-rata formula associated with the mandatory provisions of Section 9. Likewise, any permitted amendments which reduce fees have the effect of reallocating to other services within a fee category the revenues which would have been collected if the permitted amendment had not been accepted. In effect, each volume change and/or permitted amendment impacts the revenue requirement in each service within the category. Zero-basing each revenue calculation makes any attempt to explain the calculated difference between revenue requirements shown in the Notice and in this Report and Order meaningless. We, therefore, have not attempted to do this and instead, have explained each permitted amendment we've made and also described the source of any changes to volume estimates.

2. Private Radio Services

29. In developing the FY 1995 regulatory fees for Private Radio Services (set forth in the Wireless Radio Services category in the FY 1995 Regulatory Fee Schedule), we made mandatory adjustments to the Regulatory Fee Schedule required by 47 U.S.C. § 159, considering the number of FTEs and the estimated volume of payments. We have also taken into account the quality of the frequencies licensed. Accordingly, we have decided to continue to assess the two levels of regulatory fees applied to these services by Congress' fee schedule, i.e., exclusive use services and shared use services, in recognition that those licensees who generally receive a higher quality communications channel, due to exclusive or lightly shared frequencies, should pay a higher fee

than licensees who operate on heavily shared frequencies. 47 U.S.C. § 159(2).

30. We are implementing no changes to the rules for calculating fee payments and submitting regulatory fee payments for Private Radio Services. Due to the relatively small regulatory fees generally assessed for the services, we will continue to require applicants for new, reinstatement, and renewal licenses in these services to pay the entire regulatory fee for the full term of their requested license at the time they file their license applications.¹⁴ See Appendix D for a description of the development of the fees for the various services within the Private Radio category.

a. Exclusive Use Services

31. Land Mobile Services. The fees for Land Mobile Services are set forth in the FY 1995 Regulatory Fee Schedule within the Wireless Radio Service category and include services authorized under Part 90 of the Commission's Rules to provide high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These services, using the 220-222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio Service (SMRS).

32. The FY 1995 revenue requirement for Land Mobile Services is \$396,390. Our estimated payment units for Land Mobile are 13,213 units. Dividing the revenue requirement by the number of payment units and its license term of five years results in an annual fee of \$6 per license rather than the \$7 annual fee proposed in the Notice.¹⁵ Thus, Land Mobile licensees are subject to a \$6 annual regulatory fee per license, payable for an entire five or ten year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$30 for a license with a five year term or \$60 for a license with a 10 year term. See Guidelines, Appendix H at ¶4.

33. Microwave Services. The fees for Microwave Services are set forth in the FY 1995 Regulatory Fee Schedule within the Wireless Radio Service category. Microwave Services include private

¹⁴ In the event that the subject application is not granted, the entire regulatory fee submitted will be returned upon request of the payor of the fee. See 47 C.F.R. § 1.1159(a)(2)(iii).

¹⁵ Although this fee category includes licenses with ten year terms, the estimated volume of ten year license applications is less than one tenth of one percent and, therefore, is statistically insignificant.

microwave systems and private carrier systems authorized under Part 94 of the Commission's Rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline, and utility equipment.

34. The FY 1995 revenue requirement for Microwave Services is \$193,200. Payment units for Microwave Services are estimated to be 6,440 licenses. Dividing the revenue requirement for Microwave Services by its payment units and license term of five years results in an annual fee of \$6 per license. Thus, Microwave licensees are subject to a \$6 annual regulatory fee per license, rather than the \$7 annual fee proposed in the Notice, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$30 for the five year license term. See Guidelines, Appendix H at ¶6.

35. Interactive Video Data Service (IVDS). The fees for IVDS are set forth in the FY 1995 Regulatory Fee Schedule within the Wireless Radio service category. IVDS is a two-way point-to-multi-point radio service allocated high quality channels of communications and authorized under Part 95 of the Commission's Rules. IVDS provides information, products and services, and also the capability to obtain responses from subscribers in a specific service area. IVDS is offered on a private carrier basis.

36. The FY 1995 revenue requirement for IVDS is \$43,500. Payment units for IVDS are estimated to be 1,450 licenses. Dividing the revenue requirement of IVDS by its payment units and license term of five years results in an annual fee of \$6 per license rather than the \$7 fee we proposed in the Notice. Thus, IVDS licensees are subject to a \$6 annual regulatory fee per license, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$30 for the five year term of the license. See Guidelines, Appendix H at ¶7.

b. Shared Use Services

37. Marine (Ship) Service. Fees for Marine (Ship) Service are set forth in the FY 1995 Regulatory Fee Schedule for the Wireless Radio Service category. Marine (Ship) Service is a shipboard radio service authorized under Part 80 of the Commission's Rules to provide telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be voluntarily installed on smaller vessels, such as recreational boats.

38. The FY 1995 revenue requirement for the Marine (Ship) Service fee category is \$5,070,420. Payment units are estimated to be 169,014 stations. Dividing the revenue requirement of the Marine (Ship) Service by its payment units and license term of ten years results in an annual fee of \$3 per station. Thus, as proposed in the Notice, Marine (Ship) Station licensees are subject to a \$3 annual regulatory fee per station, payable for an entire ten year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$30 for the ten year license term. See Guidelines, Appendix H at ¶8.

39. Marine (Coast) Service. Fees for Marine (Coast) Service are set forth in the FY 1995 Regulatory Fee Schedule for the Wireless Radio service category. Marine (Coast) Service stations are land-based stations in the maritime services, authorized under Part 80 of the Commission's Rules, to provide communications services to ships and other watercraft in coastal and inland waterways.

40. The FY 1995 revenue requirement for this service is \$41,955 and the estimated payment units are 2,797 licenses. Dividing the revenue requirement of the Marine (Coast) Service by its payment units and license term of five years results in an annual fee of \$3 per license. Thus, as proposed in the Notice, Marine (Coast) licensees are subject to a \$3 annual regulatory fee per call sign, payable for the entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$15 per call sign for the five year license term. See Guidelines, Appendix H at ¶ 9.

41. Private Land Mobile (Other) Services. Fees for Private Land Mobile (Other) Services are set forth in the FY 1995 Regulatory Fee Schedule for the Wireless Radio Service category. Private Land Mobile Radio Services are authorized under Parts 90 and 95 of the Commission's Rules. Stations in this category provide one or two way communications between vehicles, persons or to fixed stations on a shared basis and include radiolocation services, private carrier paging services, industrial radio services and land transportation radio services.

42. The FY 1995 revenue requirement for Private Land Mobile (Other) Services is \$1,396,275. Payment units are estimated to be 93,085 licenses. Dividing the revenue requirement of these services by their payment units and license term of five years results in an annual fee of \$3 per license. Thus, as proposed in the Notice, licensees of these services are subject to a \$3 annual regulatory fee per call sign, payable for an entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee is \$15 for the five year license term. See Guidelines, Appendix H at ¶ 10.

43. Aviation (Aircraft) Service. The fee for Aviation (Aircraft) Service is set forth in the FY 1995 Regulatory Fee Schedule for the Wireless Radio service category. Aviation (Aircraft) stations are authorized to provide communications between aircraft and from aircraft to ground stations. The service includes frequencies used to communicate with air traffic control facilities pursuant to Part 87 of the Commission's Rules.

44. The FY 1995 revenue requirement for the Aviation (Aircraft) Service is \$1,130,430. The payment units are estimated to be 37,681 licenses. Dividing the revenue requirement of the Aviation (Aircraft) Service by its payment units and license term of ten years results in an annual fee of \$3 per station, as proposed in the Notice. Thus, licensees of aircraft stations are subject to a \$3 annual regulatory fee per station, payable for the entire ten year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$30 per station for the ten year license term. See Guidelines, Appendix H at ¶ 11.

45. Aviation (Ground) Service. Fees for Aviation (Ground) Service are set forth in the FY 1995 Regulatory Fee Schedule for the Wireless Radio service category. Aviation (Ground) Service stations provide ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to Part 87 of the Commission's Rules.

46. The FY 1995 revenue requirement for the Aviation (Ground) Service is \$39,900. Payment units for the Aviation (Ground) Service are estimated to be 2,660 licenses. Dividing the Service's revenue requirement by its payment units and license term of five years results in an annual fee of \$3 per license. Thus, as proposed in the Notice, licensees of Aviation Ground stations are subject to a \$3 annual regulatory fee per call sign, payable for the entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$15 per call sign for the five year license term. See Guidelines, Appendix H at ¶ 12.

47. General Mobile Radio Service (GMRS). Fees for the GMRS are set forth in the FY 1995 Regulatory Fee Schedule within the Wireless Radio service category. GMRS licensees provide personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to Part 95 of the Commission's Rules.

48. The FY 1995 revenue requirement for GMRS is \$41,775. Payment units for GMRS are estimated to be 2,785 licenses. Dividing GMRS' revenue requirement by its payment units and license term of five years results in an annual fee of \$3 per license. Thus, as proposed in the Notice, GMRS licensees are subject to a \$3 annual regulatory fee per license, payable for an

entire five year license term at the time of application for a new, reinstatement or renewal license. The total regulatory fee due is \$15 per license for the five year license term. See Guidelines, Appendix H at ¶ 13.

c. Amateur Vanity Call Signs

49. Fees for Amateur Vanity Call signs are set forth in the FY 1995 Regulatory Fee Schedule within the Wireless Radio service category. The fee covers voluntary requests for specific call signs in the Amateur Radio Service. We have concluded our rule making proceeding related to the authorization of vanity call signs. See Report and Order in PR Docket No. 93-305, 10 FCC Rcd 1039 (1995). Therefore, amateur radio operators are required to submit a regulatory fee payment with their vanity call sign application in FY 1995.

50. The revenue requirement for vanity call signs is \$840,000. We have revised our estimated payment units to 28,000 vanity call sign applications, as a result of further analysis by the Wireless Telecommunications Bureau. Dividing the service's revenue requirement by its estimated payment units and license term of ten years results in a fee of \$3 per year per license as proposed in the Notice. Thus, holders of amateur vanity call signs are subject to a \$3 annual regulatory fee per call sign, payable for an entire ten year license term at the time of application for a vanity call sign. The total regulatory fee is \$30 per license for the ten year license term.¹⁶ See Guidelines, Appendix H at ¶14.

3. Mass Media

51. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees in the television, AM and FM services and in several auxiliary services. We have incorporated changes in payment volume estimates for satellite television stations, auxiliary radio licenses, and translator stations. The payment volumes were adjusted after further review of the Commission's licensing data. See Appendix E for a description of the development of the fees for services within the Mass Media category; see also Guidelines, Appendix H at ¶¶15-26.

¹⁶ Section 9(h) exempts "amateur radio operator licenses under part 97 of the Commission's Rules (47 C.F.R. Part 97)" from the requirement to pay an annual regulatory fee. However, Section 9(g)'s Regulatory Fee Schedule explicitly includes "Amateur Vanity Call Signs" as a category subject to the payment of a regulatory fee.

a. Commercial AM and FM Radio

52. These categories include licensed commercial AM (Classes A, B, C, and D) and FM (Classes A, B, B1, C, C1, C2, and C3) radio stations operating under Part 73 of the Commission's Rules. In developing our proposed FY 1995 fees for AM and FM stations, we determined that the public interest requires that we retain the operational class distinctions among AM and FM stations that Congress established in its Regulatory Fee Schedule. 47 U.S.C. § 159. Also, as a permitted amendment, we proposed a further distinction to recognize that the population density of a station's geographic coverage is a public interest factor warranting recognition in the fee schedule. We proposed to distinguish stations located in Arbitron radio markets vis-a-vis those not located in these markets and to allocate the fee burden utilizing a fee ratio between the Arbitron and non-Arbitron markets similar to the ratio of the fee requirement established for larger television station markets and "remaining markets" set forth in the Regulatory Fee Schedule. We proposed no change to the rules for calculating and submitting regulatory fees by AM and FM radio station licensees.

53. Several commenters contend that Arbitron rankings are not useful for establishing the AM and FM fee structure. These parties state that markets are only ranked if a sufficient number of stations located within the market subscribe to the Arbitron service. Also, a station may be placed in a market if it competes with market stations even though the station may not be physically located in a major metropolitan area within the market. The National Association of Broadcasters (NAB) also argues that a station may be placed in an Arbitron market based on promotional programming during the rating period and recommends that a licensee be allowed to show that its placement in an Arbitron market is not representative of its service. Washington Broadcasting Company argues that stations 20 kilometers from the principal city in a market or serving less than 20 percent of the population of a market should not be considered as an Arbitron Market station. A number of licensees argue that fees should be based on a graduated scale by market size, differentiating between markets 1-10; 11-25; 25-50; 51-100; and remaining markets in a manner similar to that in the Regulatory Fee Schedule for television stations. Broadcast Market Associates and James Wagner recommend the fees be based on the population a station serves. Montana Broadcasters Association argues that fees should be based on gross revenues. In contrast, Radio 840, Inc. argues that all stations in the same class be assessed the same fee without distinction as to market size.

54. We agree with commenters that our proposal to base fees on whether a licensee is ranked in an Arbitron market is flawed. The Arbitron rankings data is incomplete for fee determination

purposes, and reliance upon it does not provide a sufficiently accurate and equitable methodology for determining fees. We attempted, within the limitations of available data, to compute fees on a graduated scale by market size. The results produced unexpected inequities that not only raised the fees significantly for markets 1-10 and 11-25, but also raised the fees at the low end for remaining markets. Moreover, the Commission's data bases do not contain population and gross revenue data from which we could compute fees. Therefore, we have decided not implement the proposed fees methodology for AM and FM stations. Instead, for FY 1995 we will retain the fee methodology enacted by Congress for FY 1994.¹⁷ In this regard, we note that although the Regulatory Fee Schedule does not differentiate between markets, the AM and FM fees differentiate between classes of stations and are low enough to avoid placing an onerous burden on most licensees. Thus, the regulatory fees for AM and FM stations for FY 1995 are as follows and represent the mandatory adjustments to the Regulatory Fee Schedule consistent with Section 9 (b) (2):¹⁸

AM Radio

Class A	\$1,120
Class B	620
Class C	250
Class D	310

FM Radio

Classes C, C1, C2, B	\$1,120
Classes A, B1, C3	745

We have made no change to the rules for calculating and submitting regulatory fees by AM and FM radio station licensees. See Guidelines, Appendix H at ¶16.

b. Construction Permits - Commercial AM Radio

55. This category includes holders of permits to construct new AM stations under Part 73 of the Commission's Rules. The FY 1995 revenue requirement for the Commercial AM Construction Permit fee category is \$9,875. Payment units for the service are estimated to be 79 AM Construction Permits. Dividing the revenue requirement for AM Construction Permits by the estimated payment units results in a regulatory fee of \$125 per Construction

¹⁷ Interested parties may file petitions for rule making setting forth a proposed AM and FM fee methodology as long as the proposal is supported by readily available data to be considered in connection with the development of the Notice of Proposed Rulemaking for FY 1996.

¹⁸ Appendix E shows the payment volumes and cost allocations for assessing regulatory fees for AM and FM radio.

Permit. Thus, for FY 1995, we are assessing holders of Construction Permits for Commercial AM Stations \$125 for each permit held. Upon issuance of an operating license, this fee would no longer be assessed. Instead, for the next regulatory fee period, licensees are required to pay the applicable fee for the designated class of the station. We have made no change in the rules for calculating and submitting the regulatory fee by AM construction permittees. See Guidelines, Appendix H at ¶17.

c. Construction Permits - Commercial FM Radio

56. This category includes holders of permits to construct new commercial FM stations covered under Part 73 of the Commission's Rules. The FY 1995 revenue requirement for Commercial FM Radio Construction Permits is \$435,860. Our estimate of the payment units is 703 Construction Permits. Dividing the revenue requirement for FM Construction Permits by the estimated payment units results in a regulatory fee of \$620 per permit. Thus, for FY 1995, we are assessing permittees \$620 for each permit held. Upon issuance of an operating license, this fee would no longer be assessed. Instead, for the next regulatory fee period, licensees must pay a regulatory fee based upon the designated class of the station. We are making no changes in the rules for calculating and submitting regulatory fees by FM construction permittees. See Guidelines, Appendix H at ¶18.

d. Commercial Television Stations

57. This category includes licensed Commercial VHF and UHF Television Stations covered under Part 73 of the Commission's Rules, except Television Satellite, Translator, and Low Power Stations, addressed separately below. We are assessing Commercial Television Stations annual fees based on a station's market rankings as published by Warren Publishing in the 1994 Edition of the Television and Cable Factbook (No. 62). The FY 1995 revenue requirements for the different categories of VHF and UHF Commercial Television Stations are shown in Appendix E. Payment units for Commercial Television Stations are also shown in Appendix E. Dividing the revenue requirements for each Commercial Television Station category by the payment units for each category results in the following fees for Television Stations in each ADI market grouping:

VHF Markets 1-10.....	\$22,420
VHF Markets 11-25.....	19,925
VHF Markets 26-50.....	14,950
VHF Markets 51-100.....	9,975
VHF Remaining Markets.....	6,225

UHF Markets 1-10.....	\$17,925
UHF Markets 11-25.....	15,950
UHF Markets 26-50.....	11,950
UHF Markets 51-100.....	7,975
UHF Remaining Markets.....	4,975

See Guidelines, Appendix H at ¶19.

58. Several commenters argue that the Arbitron market structure is obsolete and should be replaced with the Nielsen Station Index. Further, commenters argue that the Arbitron market structure is disadvantageous to small non-ADI markets and the stations located on the fringe of larger markets. Various solutions proposed include basing fees on Grade B Contour coverage or percentage of audience share.

59. We decline to consider any change in the methodology established by the Congress and affirmed in the FY 1994 schedule. We were unable to obtain sufficient information to properly evaluate the merits of using the Nielsen Station Index for establishing fees. The Commission's data bases do not contain data necessary to establish fees from Grade B Contour coverage or percentage of audience share. Thus, we will retain the Arbitron market groupings for FY 1995.

e. Commercial Television Satellite Stations

60. Pursuant to our authority to make permissive amendments to our regulatory fees, Television Satellite Stations (authorized pursuant to Note 5 of Section 73.3555 of the Commission's Rules) that retransmit programming of the primary station will be assessed a fee separate from the fee for fully operational television stations. This fee is based upon the \$500 fee passed by the House of Representatives for Television Satellite Stations for FY 1994. While not legally binding, the \$500 base fee was determined to be appropriate for licensees of Television Satellite Stations in our FY 1994 authorization bill passed in the House of Representatives. See H.R. 4522. In addition, pursuant to the instructions of Section 9, 47 U.S.C. § 159(b)(3), a separate fee for Television Satellite Stations would take into account the public interest factors reflected in comments filed in the proceeding to adopt the FY 1994 Schedule of Regulatory Fees. In developing the FY 1995 fee for Television Satellite Stations, we use the \$500 fee proposed by the House of Representatives for FY 1994 to calculate a FY 1995 fee for Television Satellite Stations. We divide a "simulated" FY 1994 revenue requirement by the estimated number of Television Satellite Station licenses. Our FY 1995 revenue requirement for Television Satellite Stations is \$68,200. Following release of our Notice, we revised our estimate of payment units to 110 licensed Television Satellite Stations based on an updated analysis of these stations. Therefore, we are exercising our

authority to make permitted amendments to the Regulatory Fee Schedule to establish a Television Satellite fee of \$620 per station. We caution that only those stations designated as Television Satellite Stations in the 1994 Edition of the Television and Cable Factbook (No. 62) are eligible to submit the fee applicable to Television Satellite Stations. Full-service television licensees are subject to the regulatory fee payment required for their class of station and market.¹⁹ See Guidelines, Appendix H at ¶20.

f. Construction Permits - Commercial VHF Television Stations

61. This category includes holders of permits to construct new Commercial VHF Television Stations covered under Part 73 of the Commission's Rules. The FY 1995 revenue requirement for this service category is \$54,725. The number of permits is 11. Dividing the revenue requirement for VHF Television Construction Permits by its payment units results in a fee of \$4,975. Therefore, for FY 1995, we are assessing permittees \$4,975 for each VHF Television Construction Permit held. Upon issuance of an operating license, this fee would no longer be assessed. Instead, for the next regulatory fee period, licensees must pay a fee based upon the designated market of the station. We are making no changes to the rules for calculating and submitting regulatory fees by VHF Television Construction Permittees. See Guidelines, Appendix H at ¶21.

g. Construction permits - Commercial UHF Television Stations

62. This category includes holders of permits to construct new UHF Television Stations covered under Part 73 of the Commission's Rules. The FY 1995 revenue requirement for this service category is \$576,375. Payment units for UHF Television Construction Permits are estimated to be 145 permits. Dividing the revenue requirement for this service category by its estimated payment units results in a fee of \$3,975 for each UHF Television Construction Permit held. Therefore, we are assessing a fee of \$3,975 per UHF Television Construction Permit. Upon issuance of an operating license, this fee would no longer be assessed. Instead, for the next regulatory fee period, licensees must pay a fee based upon the designated market of the station. We are making no changes to the rules for calculating and submitting

¹⁹ We recognize that an ongoing rule making proceeding is addressing whether Television Satellite Stations should continue to be exempt from the Commission's national television ownership restrictions. Our decision to assess a regulatory fee for Television Satellite Stations that is less than the amount for Commercial Television Stations should not be taken as a signal that any determination has been made with regard to the outcome of that proceeding.

regulatory fees by UHF Television Construction Permittees. See Guidelines, Appendix H at ¶22.

h. Construction Permits - Satellite Television Stations

63. We are exercising our authority to make permitted amendments to add a new service category to the Regulatory Fee Schedule in recognition that the holders of Construction Permits for UHF and VHF Television Satellite Stations should be charged a separate, lower fee than the fee charged holders of Construction Permits for fully operational Television Stations. See ¶ 56 above, where we exercised our authority to make permitted amendments to the Regulatory Fee Schedule relating to the fee for Television Satellite Stations. We developed the fee for Television Satellite Construction Permits by taking the average fee for VHF and UHF Television Stations and relating it to the average fee for Construction Permits for VHF and UHF Television Stations. Using this relationship and the revenue requirement for Television Satellite Stations results in a computed fee of \$225 for Construction Permits for Television Satellite Stations. An individual regulatory fee payment is to be made for each Television Satellite Station Construction Permit held. Upon issuance of an operating license, this fee would no longer be assessable. Instead, for the next fee period the licensee will be assessed the fee for an operating Television Satellite Station. See Guidelines, Appendix H at ¶23.

i. Low Power Television, FM Translator and Booster Stations, TV Translator and Booster Stations

64. This category includes Low Power UHF/VHF Television stations operating under Part 74 of the Commissions Rules with a transmitter power output limited to 0.01kw for a UHF facility and, generally, 1kw for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV broadcast station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under Part 74 that rebroadcast the signals of full service stations on a frequency different from the parent station (Translators) or on the same frequency (Boosters).

65. We are exercising our authority to make permitted amendments to the Regulatory Fee Schedule to include FM Translator and Booster Stations because we believe these facilities were inadvertently omitted from the Regulatory Fee Schedule and we are unaware of any reason not to establish a fee for these services. The stations in this category are secondary to full service stations in terms of frequency priority.

66. We have also received requests for waivers of the regulatory fees from operators of community based Translators. These Translators are generally not affiliated with commercial